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July 14, 2023

Via Electronic Filing

The Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
Courtroom: 618 | Chambers: Room 2103
New York, New York 10007

MEMO ENDORSED

Re: Tuteur v. Metropolitan Opera Association, Inc., Case No. 1:23-cv-03997 (KPF); and *Viti v. Metropolitan Opera Association, Inc.*, Case No. 1:23-cv-05343 (KPF)

Dear Judge Failla,

We represent Plaintiff Anthony Viti in the above-referenced proposed class action lawsuit captioned *Viti v. Metropolitan Opera Association, Inc.*, Case No. 1:23-cv-05343 (KPF) (the “*Viti Action*”). We write jointly with counsel for Plaintiff Rebecca Tuteur in the above-referenced proposed class action lawsuit captioned *Tuteur v. Metropolitan Opera Association, Inc.*, Case No. 1:23-cv-03997 (KPF) (the “*Tuteur Action*”).

In accordance with the guidance and directive issued by the Court during the telephonic conference held on July 7, 2023, and in accordance with the direction issued by the Court on July 10, 2023, in Minute Entries entered in the *Tuteur* and *Viti* actions, counsel for Plaintiffs Tuteur and Viti discussed with each other and, separately, with their respective clients the issue of lead class counsel in this matter. Based on those discussion, Plaintiffs in the *Tuteur* and *Viti* Actions withdraw their previous request that the Court appoint their respective counsel as Interim Co-Lead Class Counsel and, instead, respectfully jointly request that, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, the Court appoint Israel David of Israel David LLC as Interim Lead Class Counsel in the consolidated action.¹

¹ As an update to the Firm Resume of Israel David LLC submitted on June 29, 2023 (ECF 11-2 in the *Tuteur Action*), we apprise the Court that Mr. Adam M. Harris will be joining Israel David LLC as a partner on Monday, July 17, 2023. Mr. Harris was a litigation partner at Ropes & Gray LLP from November 2019 through today and has extensive class action experience.

Separately, Plaintiffs respectfully request that they be granted two weeks from the date that the Court consolidates the *Tuteur* and *Viti* Actions to file a consolidated amended complaint.

Respectfully submitted,

/s/ *Israel David*

Israel David

cc: Honorable Katherine Polk Failla (*via* electronic mail)
Counsel of Record (*via* ECF)

The Court is in receipt of Plaintiffs' motion to consolidate *Viti v. Metropolitan Opera Association, Inc.*, 23 Civ. 5343 with *Tuteur v. Metropolitan Opera Association, Inc.*, 23 Civ. 3997 dated June 29, 2023 (Dkt. #10), and the above letter requesting that Israel David of Israel David LLC be appointed as Interim Lead Class Counsel in the consolidated action. Both applications are hereby GRANTED. Plaintiffs are to file a consolidated amended complaint on or before **August 3, 2023**.

The Clerk of Court is hereby directed to consolidate these two actions under Master File No. 23 Civ. 3997, to add Anthony Viti as a Plaintiff on that docket, and to close the 23 Civ. 5343 action.

The Clerk of Court is further directed to terminate the pending motion at docket number 10.

Dated: July 17, 2023 SO ORDERED.
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE